

without a Guarantee under this Program. To satisfy this requirement, an Applicant must provide, with its application, documentation from at least one lending institution other than the Lender to which the Applicant has applied for financial assistance dated within six months of submission of the application, indicating that the Applicant was unable to obtain substantially the same Loan it is applying for on reasonable terms and conditions; and

(vi) Repayment of the Loan can reasonably be expected.

§ 2201.13 Lender.

(a) *Eligibility.* (1) The Board will make a determination of eligibility of a Lender to make a Loan to be guaranteed under the Program based upon the criteria set forth in paragraphs (b) and (c) of this section.

(2) A determination that a Lender is eligible does not assure that the Board will approve a Guarantee sought, or otherwise preclude the Board from declining to approve a Guarantee.

(b) *Qualifications.* In addition to evaluating an application pursuant to § 2201.18, in making a determination to approve a Guarantee to a Lender, the Board will assess:

(1) The Lender's Regulatory Capital Ratios, in the case of Banking Institutions, or Net Worth Ratios, in the case of other institutions;

(2) Whether the Lender possesses the ability to administer the Loan, including its experience with loans to telecommunications companies;

(3) The scope, volume and duration of the Lender's activity in administering loans, including federally guaranteed loans;

(4) The performance of the Lender's loan portfolio, including its current delinquency rate;

(5) The Lender's charge-off rate, expressed as a percentage of outstanding loans for its current fiscal year;

(6) If the Lender intends to sell participation interests in the Loan, the plan of syndication; and

(7) Any other matter the Board deems material to its assessment of the Lender.

(c) A Loan will not be guaranteed unless:

(1) If the Lender is not a nonprofit corporation and is subject to loan-to-one-borrower and Affiliate transaction restrictions under applicable law, the Loan is made in accordance with such restrictions;

(2) If the Lender is not a nonprofit corporation and is not subject to the restrictions described in paragraph (c)(1) of this section, the Loan is made to a Borrower that is not an Affiliate of the Lender and the amount of the Loan, and all outstanding loans by the Lender to the Borrower and any of its Affiliates, does not exceed 10 percent of the Net Equity of the Lender; and

(3) If the Lender is a nonprofit corporation, the Board determines that:

(i) Such nonprofit corporation has one or more issues of outstanding long-term debt that is rated within the highest 3 rating categories of a nationally recognized statistical rating organization, as evidenced by written confirmation from the nationally recognized statistical rating organization, subject to updating upon request of the Board; and

(ii) The making of the Loan would not cause a decline in the rating of such Lender's long-term debt below the highest 3 rating categories of a nationally recognized statistical rating organization, as evidenced by written confirmation from the nationally recognized statistical rating organization, subject to updating upon request of the Board.

(d) *Agent.* (1) An application for a Guarantee of a single Loan that includes participation of more than one Lender must identify one of the Lenders participating in such Loan to act as Agent for all Lenders. This Agent is responsible for administering the Loan and shall have those duties and responsibilities required of an Agent, as set forth in the Guarantee.

(2) If more than one Lender is seeking a Guarantee of a single Loan, each one of the Lenders on the application must meet the qualifications set forth in paragraphs (b) and (c) of this section. However, only the Agent must meet the qualifications set forth in paragraph (b)(2) and (3) of this section.

(3) Each Lender, irrespective of any indemnities or other agreements between the Lenders and the Agent, shall

be bound by all actions, and/or failures to act, of the Agent. The Board and the Administrator shall be entitled to rely upon such actions and/or failures to act of the Agent as binding all Lenders.

§ 2201.14 Eligible Loan purposes.

To be guaranteed under the Program, a Loan must be made for the purpose of financing the acquisition, improvement, enhancement, construction, deployment, launch, or rehabilitation of the means by which Local Television Broadcast Signals will be delivered to a Nonserved Area or Underserved Area.

§ 2201.15 Ineligible Loan purposes.

(a) The proceeds of the Loan shall not be used for operating, advertising, or promotion expenses, or for the acquisition of licenses for the use of spectrum in any competitive bidding.

(b) The Applicant shall not transfer proceeds of the Loan to any Affiliate(s).

(c) The Board will not fund a Project that is designed primarily to serve one or more of the top 40 Designated Market Areas.

(d) The Board will not fund a Project that would alter or remove National Weather Service warnings from Local Television Broadcast Signals.

(e) No Guarantee may be granted or used to provide funds to a Project that extends, upgrades, or enhances the services provided over any cable system to an area that, as of the enactment of the Act, is covered by a cable franchise agreement that expressly obligates a cable operator to serve such area.

§ 2201.16 Environmental requirements.

(a) *General.* (1) Environmental assessments of the Board's actions will be conducted in accordance with applicable statutes, regulations, and other applicable authorities. Therefore, each application for a Guarantee under the Program must be accompanied by information necessary for the Board to meet the requirements of applicable law.

(2) *Actions requiring compliance with NEPA.* (i) The types of actions classified as "major Federal actions" subject to NEPA procedures are discussed in 40 CFR parts 1500 through 1508.

(ii) With respect to this Program, these actions typically include:

(A) Any Project, permanent or temporary, that will involve construction and/or installations;

(B) Any Project, permanent or temporary, that will involve ground disturbing activities; and

(C) Any Project supporting renovation, other than interior remodeling.

(3) *Environmental information required from the Applicant.* (i) Environmental data or documentation concerning the use of the proceeds of any Loan guaranteed under this Program must be provided by the Applicant to the Board to assist the Board in meeting its legal responsibilities.

(ii) Such information includes:

(A) Documentation for an environmental threshold review from qualified data sources, such as a Federal, State or local agency with expertise and experience in environmental protection, or other sources, qualified to provide reliable environmental information;

(B) Any previously prepared environmental reports or data relevant to the Loan at issue;

(C) Any environmental review prepared by Federal, State, or local agencies relevant to the Loan at issue; and

(D) Any other information that can be used by the Board to ensure compliance with environmental laws.

(iii) All information supplied by the Applicant is subject to verification by the Board.

(b) The regulations of the Council on Environmental Quality implementing NEPA require the Board to provide public notice of the availability of Project specific environmental documents such as environmental impact statements, environmental assessments, findings of no significant impact, records of decision, etc., to the affected public. *See* 40 CFR 1506.6(b). Environmental information concerning specific Projects can be obtained from the Board by contacting: Secretary, LOCAL Television Loan Guarantee Board, 1400 Independence Ave., SW., Room 2919-S, Stop 1575; Washington, DC 20250-1575.

(c) *National Environmental Policy Act—* (1) *Purpose.* The purpose of this paragraph (c) is to adopt procedures for